

Law draws veil over Suharto's darker past

By Yenni Kwok

It took more than two years of wrangling and student street protests before the Indonesian Attorney General's office finally agreed to launch the Suharto corruption trial. Even now, the former president is refusing to attend, with his doctors yesterday telling the court their patient risks suffering a fatal stroke in a stressful situation.

But it was not only corruption that was commonplace during Suharto's 32-year rule. Human rights abuses were widespread, with killings, abduction, torture and rapes used to silence activists and crush separatist movements from Aceh to West Papua. Yet, compared with intense demands for the corrupt to be brought to justice, public pressure to investigate past human rights abuses is more muted.

"It's as if Suharto's corruption trial gives him impunity over his human rights violations," said Munir, head of the Commission for Disappearances and Victims of Violence (Kontras).

Though President Abdurrahman Wahid's government is investigating human rights violations in East Timor, this has so far been strictly confined to those committed in the post-Suharto era following last year's referendum on independence. Critics have also cried foul that then-armed-forces chief General Wiranto and militia leader Eurico Guterres were not named among the 19 suspected of committing crimes against humanity. Wiranto resigned this year over the East Timor bloodshed, while Guterres has now joined a paramilitary group belonging to the Indonesian Democratic Party led by Vice-President Megawati Sukarnoputri.

The Government has promised to establish a human rights court, and a bill to this effect is now under discussion in parliament. However, the new body's remit is likely to be limited to human rights abuses which occur in future, especially since the parliament agreed last month to amend chapter 28 of the constitution. This chapter now also guarantees "the right not to be prosecuted based on a law which can be applied retroactively". It calls this a right "which cannot be diminished under any condition".

Though the wording has been largely drawn from chapter 11(2) of the United Nations Declaration of Human Rights, which guarantees non-

retroactivity for anyone accused of a penal offence, human rights activists attacked the change, saying an exception should be made for human rights violations.

"Crimes against humanity are so serious that non-retroactivity law doesn't usually apply to them," said Sidney Jones, Asia director of Human Rights Watch. "This is the prevailing trend in international law." Like other activists, she is afraid the amended chapter will be used to shield Suharto and high-ranking military figures.

"Any investigation of human rights violations has to start with 1965-1966," said George Aditjondro, sociologist at the University of Newcastle, Australia, referring to the period when between 300,000 and a million people are believed to have died during fighting that brought Suharto to power. "However, this would be a political suicide for President Gus Dur [the nickname for Mr Wahid] and Megawati."

The largest number of killings were committed in East Java by members of Nahdlatul Ulama, the body which Mr Wahid later headed, and in Bali where the population fervently supports Ms Megawati.

After Suharto deposed Sukarno as president, military action was used to crush dissent. Aceh, West Papua and East Timor - which engaged in armed struggles for independence - suffered most. As many as a third of East Timor's 650,000 pre-invasion population perished between 1976 and 1980.

The heavy-handed military approach was also practised elsewhere in the archipelago. Between 1983 and 1985, as many as 10,000 repeat convicts were killed in covert military operations defended by Suharto as "shock therapy".

In 1984, soldiers opened fire on Muslim protesters in North Jakarta, killing dozens. Five years later, an estimated 100 villagers in Lampung lost their lives when the army stepped in to end land disputes involving big plantations. Kidnappings and disappearances were not uncommon. Kontras recorded 528 reported disappearances from 1980, but the actual number is believed to be much higher.

In 1998, a Government fact-finding team confirmed that 52 women, mostly ethnic Chinese, were raped in the May riots prior to Suharto's fall. Fingers pointed to military elements involved in the riots, but no further investigations were made.

"There is a stronger resistance to investigate and try human rights cases compared with corruption," said Mr Munir. That may be partly because not all the human rights abuses were committed by the military and government, with ordinary people carrying out many of the killings in 1965-66.

"We tend to forget [the previous incidents]," said Arief Budiman, a sociologist at the University of Melbourne. Some Indonesians believe that bringing the perpetrators to trial is necessary, not only for justice but also for reconciliation.

But how? Human rights activists believe that the amended chapter 28 has blocked any effort to try the violations under a national tribunal. They also contend that common criminal law is not appropriate to try crimes against humanity or gross violations of human rights.

"If Indonesia cannot hold a national tribunal, the responsibility falls on the international community," said Rafendi Djamin, chairman of Amsterdam-based Indonesia Forum for Human Dignity, pointing out that crimes against humanity fell under the category of "international crimes".

Some hope things will change, and that Indonesia's parliament may even amend chapter 28 to allow for the retroactive principle of human rights violations. That would be similar to what happened in Chile, which first granted former dictator Augusto Pinochet immunity but has now revoked it.

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